

## **REMARKS**

In view of the above amendments and the following remarks reconsideration and further examination are respectfully requested.

### **I. Amendments to the Claims**

Claims 2, 6 and 7 have been amended to clarify features of the invention so as to overcome the 35 U.S.C. § 112, second paragraph rejection discussed in detail below.

Further, claim 1 has been amended to make an editorial revision. This editorial revision has been made to place claim 1 in better U.S. form. Further, this editorial revision has not been made to narrow the scope of protection of the claim, or to address issues related to patentability, and therefore, this amendment should not be construed as limiting the scope of equivalents of the claimed features offered by the Doctrine of Equivalents.

### **II. 35 U.S.C. § 112, Second Paragraph Rejection**

Claims 1-7 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Specifically, claims 2-7 were rejected for reciting limitations that suggest some element of time within the structure of the claimed “system.” As suggested in items 20 and 21 on pages 6 and 7 of the Office Action, claim 2 has been amended to recite that (i) the playback apparatus comprises a transmitting unit programmed to transmit an authorization request, (ii) the server apparatus is programmed to transmit an authorization response when, based on the authorization request, the server apparatus has determined that the combination of the content identifier and the apparatus region code satisfies the predetermined condition, and (iii) the server apparatus is programmed to transmit a non-authorization response when, based on the authorization request,

the server apparatus has determined that the combination of the content identifier and the apparatus code does not satisfy the predetermined condition.

Thus, in view of the above, it is respectfully submitted that this 35 U.S.C. § 112, second paragraph rejection is no longer applicable to amended claim 2.

Furthermore, the Applicants note that claims 6 and 7 have been amended in a similar manner. Accordingly, in view of the above-mentioned amendments to intervening claim 2 and dependent claims 6 and 7, it is respectfully submitted that the 35 U.S.C. § 112, second paragraph rejection of claims 3-7 is no longer applicable.

As mentioned above, claim 1 was rejected for being indefinite because it is unclear whether Applicants are claiming a system or a hybrid system/process, due to the suggestion of the occurrence of an element of time based on previously presented claim 2. However, in view of the above-mentioned amendments to claim 2 that remove any suggestion of the element of time, the Applicants respectfully submit that it is now clear that claim 1 is not directed to a hybrid system/process.

Thus, in view of the above, it is respectfully submitted that this rejection is no longer applicable to claim 1.

Therefore, it is respectfully submitted that independent claim 1 and claims 2-7 and that depend therefrom are no longer indefinite and comply with the requirements of 35 U.S.C. § 112, second paragraph. As a result, withdrawal of this 35 U.S.C. § 112, second paragraph rejection of claims 1-7 respectfully requested.

### III. 35 U.S.C. § 103 Rejection

Claims 1-5, 7 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Yamada (U.S. 6,141,483) and Wald (U.S. 2007/0124602). This rejection is believed clearly inapplicable to independent claim 1 and claims 2-7 and 13 that depend therefrom for the following reasons.

Independent claim 1 recites a system including an optical disc having a disc region code assigned thereto and having content and a content identifier identifying the content recorded thereon, and including a playback apparatus for playing back the optical disc. In addition, claim 1 recites that the playback unit is programmed such that, even when the disc region code of the optical disc does not match an apparatus region code of the playback apparatus, the playback unit plays back the content recorded on the optical disc when the control unit judges that a combination of the content identifier of the optical disc and an apparatus region code of the playback apparatus satisfies a predetermined condition defined by an owner of rights of the content.

In other words, based on claim 1, even when the playback apparatus normally would not be permitted to play back the content because the disc region code of the optical disc does not match the apparatus region code of the playback apparatus, the playback apparatus will be permitted to perform a playback (i.e., an exceptional playback) of the content when the control unit judges that the combination of the content identifier of the optical disc and the apparatus region code of the playback apparatus satisfies the predetermined condition defined by the owner of rights of the content. Yamada fails to disclose or suggest the above-mentioned distinguishing limitations required by claim 1.

Rather, Yamada teaches that (i) permission condition data 45 includes conditions for permitting a reproduction/transfer of data for a specific data reproducing apparatus 2 or a user having an appropriate password or ID number, even if region codes do not coincide with each other (see col. 10, lines 11-16), (ii) if the region codes from a recording unit and a recording medium coincide with each other (ST14), then a data read from data area 33 or the data area/rewritable data zone 23 is transferred (ST15) (see col. 12, line 64 to col. 13, line 5), and (iii) if a period defined in time permission data is longer than an elapsed time, permission/non-permission data regarding the reproduction/transfer of data is referenced (ST22), so as to notify a permission mode to a host computer 3 (ST24), so that the host computer 3 can display the status a request the password or ID code from the user (ST25) (see col. 13, lines 21-30).

Accordingly, even though Yamada teaches that some type of playback control is permitted even if region codes do not coincide with each other, as long as an appropriate password or ID is provided, Yamada still fails to disclose or suggest that, even when the playback apparatus normally would not be permitted to play back the content because the disc region code of the optical disc does not match the apparatus region code of the playback apparatus, the playback apparatus will be permitted to perform the (exceptional) playback of the content when the control unit judges that the combination of the content identifier of the optical disc and the apparatus region code of the playback apparatus satisfies the predetermined condition defined by the owner of rights of the content, as required by claim 1.

More specifically, even though Yamada teaches that, if the region codes do not coincide with each other, the data can be still be reproduced/transferred according to the permission condition data 45 as long as a coincident password or ID number is obtained, Yamada still fails to disclose or suggest that, even when the playback apparatus normally would not be permitted to

play back the content because the disc region code of the optical disc does not match the apparatus region code of the playback apparatus, the playback apparatus will be permitted to perform the (exceptional) playback of the content when the control unit judges that the combination of the content identifier of the optical disc and the apparatus region code of the playback apparatus satisfies the predetermined condition defined by the owner of rights of the content, as required by claim 1.

Now turning to Wald, the Applicants note that Wald teaches that a Removable Mass Storage (RMS) performs a playback based on a content license (CL), wherein the CL includes a Content Segment License (CSL) a Content User License (CUL) and a Baseline Entitlement Control Message (BL-ECM), such that the CSL is created and signed by an owner of the content using the owner's private key (see paragraph [0292]). Additionally, Wald teaches that the CSL includes a content identifier identifying an associated content unit, a content link, a content provider identifier, a service center identifier, location information, instructions regarding the use of the content, and a public key (see paragraph [0292]). Further, Wald teaches that the CL is in a tabular format, such that permission or non-permission of playback is determined based on a combination of the content identifier of the CSL and a license (see paragraph [0311]).

Thus, in view of the above, it is clear that Wald teaches that the content identifier is included in the content license (CL) for determining playback permission, but fails to disclose or suggest that, even when the playback apparatus normally would not be permitted to play back the content because the disc region code of the optical disc does not match the apparatus region code of the playback apparatus, the playback apparatus will be permitted to perform the (exceptional) playback of the content when the control unit judges that the combination of the content

identifier of the optical disc and the apparatus region code of the playback apparatus satisfies the predetermined condition defined by the owner of rights of the content, as required by claim 1.

Therefore, because of the above-mentioned distinctions it is believed clear that independent claim 1 and claims 2-7 and 13 that depend therefrom would not have been obvious in view of Yamada and Wald.

Furthermore, there is no disclosure or suggestion in Yamada and/or Wald or elsewhere in the prior art of record which would have caused a person of ordinary skill in the art to modify Yamada and/or Wald to obtain the invention of independent claim 1. Accordingly, it is respectfully submitted that independent claim 1 and claims 2-7 and 13 that depend therefrom are clearly allowable over the prior art of record.

#### **IV. Double Patenting Rejection**

Claims 1-7 and 13 were rejected under the judicially created doctrine of non-statutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 7,765,158.

Initially, the Applicants note that claim 6 recites that “the server apparatus is programmed to transmit the authorization response along with accompanying information including (i) rating information in a country to which the playback apparatus belongs, and (ii) subtitle data and audio data in a language used in the country to which the playback apparatus belongs; and the playback unit is programmed such that, when the control unit judges that the combination of the content identifier and the apparatus region code satisfies the predetermined condition defined by the owner of the rights of the content, the playback unit plays back the content using the accompanying information.”

In other words, according to claim 6, when the region codes are not coincident with each other, subtitle and audio data corresponding to the region code assigned to a recording medium is provided as accompanying information and the (exceptional) playback is performed with use of the accompanying information. Accordingly, based on the structure required by claim 6, while permitting the (exceptional) playback, the subtitle and audio data (which is difficult to obtain because the region code of the optical disc is different from the region code of the playback apparatus) can be played by the playback apparatus, which in turn, offers a convenience to users.

Accordingly, claim 6 further defines a practical use for the (exceptional) playback described in claim 1. This practical use is not described or suggested by claim 1 of U.S. 7,765,158.

Furthermore, the Applicants note that claim 7 recites that “the server apparatus is programmed to transmit the authorization response along with restriction information; the content includes a digital stream recorded on the optical disc; the restriction information is one of (i) information that indicates a part of the digital stream as a playback section and (ii) information that causes only a part of elementary streams multiplexed onto the digital stream to be played back; and the playback unit is programmed such that, when the control unit judges that the combination of the content identifier and the apparatus region code satisfies the predetermined condition defined by the owner of the rights of the content, the playback unit plays back the content using the restriction information.”

In other words, according to claim 7, the (exceptional) playback is performed with the use of playlist information of a disc, (e.g., a BD-ROM), such that the playlist information is used to cause, for example, only a part of a plurality of streams multiplexed into an AV clip to be

played back and is used to define, for example, a logical playback section by specifying In\_Time and Out\_Time.

Accordingly, based on the structure required by claim 7, playable graphic streams and audio streams can be reduced from those when the region codes coincide with each other when permitting the (exceptional) playback, such that a section, to be played back in the (exceptional) playback, can be reduced from the sections played back when the region codes coincide with each other. In other words, the (exceptional) playback can be further restricted.

Accordingly, claim 7 further defines a further restriction of the (exceptional) playback described in claim 1. This further restriction is not described or suggested by claim 1 of U.S. 7,765,158.

As a result, withdrawal of this double-patenting rejection of claims 6 and 7 should be withdrawn. Further, the Applicants request that this double-patenting rejection of claims 1-5 and 13 be held in abeyance.

## **V. Conclusion**

In view of the above amendments and remarks, it is submitted that the present application is now in condition for allowance and an early notification thereof is earnestly requested. The Examiner is invited to contact the undersigned by telephone to resolve any remaining issues.

Respectfully submitted,

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